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HUMAN RIGHTS COMMITTEE
Seventy-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE

Czech Republic

1. The Committee examined the initial report submitted by the Czech Republic (CCPR/C/CZE/2000/1) at its 1931st, 1932nd, and 1933rd meetings, held on 11 and 12 July 2001, and adopted the following concluding observations at its 1949th meeting, held on 24 July 2001.

A. Introduction

2. The Committee has examined the detailed and comprehensive report of the Czech Republic, covering events since its establishment as one of the successor States of the Czech and Slovak Federative Republic on 1 January 1993. The Committee is grateful to the delegation of the Czech Republic for its frank account of recent developments and problems encountered in the implementation of the rights provided for in the Covenant, which was highly instructive and enhanced the quality of the discussion. It further commends the delegation for supplying it with a great deal of information about the legal situation in the Czech Republic, but regrets that it was not provided with more information with regard to the implementation of Covenant rights in practice.

B. Positive aspects

3. The Committee commends the State party for its commitment to rebuilding a democratic legal order and undertaking the process of bringing its legislation into harmony with its international obligations, since the transition to democracy which started in 1989. This includes the serious attempt by the State party to adopt a new rights-based Constitution and Charter of Fundamental Rights and Freedoms that embodies internationally recognized human rights.

4. The Committee welcomes the fact that capital punishment was abolished in 1990 and encourages the Czech Republic to accede to the Second Optional Protocol to the Covenant.

C. Principal subjects of concern and recommendations

5. While the Covenant has a status superior to domestic legislation, not all rights stipulated in the Covenant have been incorporated in the Charter of Fundamental Rights and Freedoms, which leads to confusion as to the full protection of all Covenant rights. It is also not clear what the relationship between the Covenant and the Charter and other parts of the constitutional order is (art. 2).

> The State party should clarify the relationship between the Covenant rights not included in the Charter and the constitutional order, so as better to ensure full implementation of all Covenant rights in all circumstances.

6. The Committee is concerned at the apparent absence of procedures for dealing with the implementation of the Views of the Committee under the Optional Protocol. The Committee deeply regrets the position adopted by the State party in the cases of Simunek (516/1992) and Adam (586/1994), regarding the restitution of property or compensation under Act 87/91. The Committee also regrets the State party's response to its decision that the pre-condition of Czech citizenship for restitution or compensation under Act 87/91 was discriminatory and in violation of article 26 of the Covenant. A decision by the Constitutional Court on the constitutionality of the relevant law cannot exonerate the State party from its obligations under the Covenant (art. 2; Optional Protocol, arts. 1, 4).

> The State party should reconsider its present law regarding the right to seek restitution of property or compensation. It should also put in place procedures to deal with views of the Committee under the Optional Protocol. In both cases, the Committee wishes to be informed about the outcome of this recommendation.

7. The Committee is concerned about the lack of independent mechanisms for monitoring the practical implementation of rights. While welcoming the creation of the institution of the Ombudsman for investigating individual complaints, the Committee notes that his or her powers are limited to recommendations covering the public sector. Furthermore, the Commissioner on Human Rights is a government official and the Council for Human Rights an advisory body; they have no mandate to deal with individual complaints relating to human rights (art. 2).

> The State party should adopt measures to establish effective independent monitoring mechanisms for implementation of Covenant rights, particularly in the area of discrimination.

8. The Committee is deeply concerned about discrimination against minorities, particularly the Roma. Although the delegation acknowledged the problem, the Committee was not provided with detailed information regarding discrimination in employment, education, health care,

housing, penitentiaries, social programmes and in the private sphere, as well as participation in public life. The steps taken by the State party to improve the socio-economic condition of the Roma do not appear to be adequate to address the situation and de facto discrimination persists (arts. 26, 27).

> In order to ensure compliance with articles 2 and 26 of the Covenant, the State party should take all necessary measures to eliminate discrimination against members of minorities, particularly the Roma, and to enhance the practical enjoyment of their rights under the Covenant; full details on policies adopted and their results in practice should be provided to the Committee.

9. The Committee is particularly concerned about the disproportionate number of Roma children who are assigned to special schools designed for mentally disabled children, which would seem to indicate the use of stereotypes in the placement decisions, in contravention of article 26 of the Covenant, and which make it difficult, if not impossible, to secure admission to secondary schools (art. 26).

> The State party should take immediate and decisive steps to eradicate the segregation of Roma children in its educational system by ensuring that placement in schools is carried out on an individual basis and is not influenced by the child's ethnic group. Where needed, the State party should also provide special training to Roma and other minority children to secure, through positive measures, their right to education.

10. While noting various recent amendments to legislation to combat discrimination in employment, the Committee is concerned at the lack of monitoring of the implementation of this legislation. The Committee is also concerned at the high rate of unemployment of Roma, bordering on 70 per cent when the general rate of unemployment is 10 per cent. The Committee is also concerned at the absence of legislation prohibiting discrimination in other fields, such as educational and health-care systems, housing and the provision of goods and services (arts. 2, 3, 26).

> The State party should adopt measures to ensure the effectiveness of existing legislation against discrimination. It should also adopt further legislation in fields not covered by the current legislation in order to ensure full compliance with articles 2, 3 and 26 of the Covenant. The State party should also make greater efforts to provide training to Roma in order to equip them for suitable employment and create job opportunities for them.

11. While noting the concern expressed by the State party about racial violence, and the statement as to the decrease in the number of such acts and the increase in prosecutions, the Committee remains concerned at violence and harassment by some groups with respect to the Roma minority, and the failure on the part of the police and judicial authorities to investigate, prosecute and punish hate crimes (arts. 2, 20, 26).

> **The State party should take all necessary measures to combat racial violence and incitement, provide proper protection to Roma and other minorities, and ensure adequate investigation and prosecution of cases of racial violence and incitement to racial hatred.**

12. The Committee is concerned at the low participation of women in political life, as well as their inadequate representation at the higher levels of administration. The Committee regrets that the delegation was not in a position to provide the Committee with information relating to the representation of women in the private sector (arts. 3, 26).

The State party should adopt measures to increase the participation of women in the public and private sectors, if necessary through appropriate positive measures, in order to give effect to its obligations under articles 3 and 26.

13. The Committee is deeply concerned about reports of trafficking of women, with the State party being a country of origin and transit as well as a recipient country (arts. 3, 8).

The State party should take resolute measures to combat this practice, which constitutes a violation of several Covenant rights, including article 3 and the right under article 8 to be free from slavery and servitude. The State party should also strengthen programmes aimed at providing assistance to women in difficult circumstances, particularly those coming from other countries who are brought into its territory for the purpose of prostitution. Strong measures should be taken to prevent this form of trafficking and to impose sanctions on those who exploit women in this way. Protection should be extended to women who are the victims of this kind of trafficking so that they may have a place of refuge and an opportunity to give evidence against the person responsible in criminal or civil proceedings. The Committee wishes to be informed of the measures taken and their result.

14. The Committee is concerned about reports of domestic violence and regrets that no statistics were provided by the State party. While welcoming public information campaigns and training of the police, the Committee is concerned about the absence of specific protection in law and in practice (arts. 3, 9, 26).

The State party should adopt the necessary policy and legal framework to combat domestic violence; specifically, it should provide a framework for the protection of a spouse who is subjected to violence or threats of violence.

15. The Committee is deeply concerned about the persistent allegations of police harassment, particularly of the Roma minority and aliens, which the delegation described as resulting from lack of sensitivity rather than harassment (arts. 2, 7, 9, 26).

The State party should take firm measures to eradicate all forms of police harassment of aliens and vulnerable minorities.

16. The Committee is concerned that complaints against the police are handled by an internal police inspectorate, while criminal investigations are handled by the Interior Ministry, which has overall responsibility for the police. This system lacks objectivity and credibility and would seem to facilitate impunity for police officers involved in human rights violations (arts. 2, 7, 9).

The State party should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuses of power by the police.

17. The Committee is concerned that the period of up to 48 hours before being brought before a court is excessive and that access to a lawyer is not available during that period to a suspect who cannot afford one (art. 9).

The State party should ensure that detained persons are brought promptly before a court and that access to a lawyer is available from the moment of deprivation of liberty.

18. The Committee is concerned about the scope and length of pre-trial detention, the average length of which is inordinately high. The system, as it is applied, would seem to raise issues of compatibility with article 9, paragraph 3 of the Covenant. The figures provided by the State party on the number of cases in which the prosecution's request for detention is accepted by the courts casts doubts on the effectiveness of the system of review (art. 9).

The State party should ensure that its law and practice are in strict compliance with the requirements of article 9 of the Covenant; the State party is requested to provide further information on the implementation of the new Code of Criminal Procedure in its next periodic report.

19. The Committee is concerned about overcrowding in prisons (art. 10).

The State party should take measures to overcome overcrowding in prisons and to ensure compliance with the requirements of article 10. Information should be provided on prison capacity and the actual prison population so as to permit the Committee to assess the level of overcrowding.

20. While acknowledging the change in the Code of Criminal Procedure which will abolish unconditional prison sentences under the system of punishment orders, the Committee remains concerned that this system of punishment orders raises serious issues under article 14 of the Covenant, particularly with regard to the right to defence.

The State party should ensure that the rights under article 14 of the Covenant of persons on whom punishment orders are imposed are fully respected.

21. The Committee is concerned that the system of legal aid in the State party does not ensure that legal aid will be made available in all cases required under article 14 (3) (d) of the Covenant.

The State party should review its system of legal aid in order to ensure that legal assistance will be available to all defendants in criminal cases where the interests of justice so require.

22. The Committee takes note of changes in the religious registration requirements, but remains concerned about the potentially different treatment the law continues to accord to different religions on the basis of registration and non-registration (arts. 18, 26).

The State party should provide further information in its next periodic report.

23. The Committee is deeply concerned at reports of sexual abuse of children, including child pornography. The Committee is pleased to note that NGOs are providing assistance in dealing with the problem of child abuse and that the State party is also taking steps to create public awareness of the problem. It welcomes the steps taken by the State party to provide special accommodation for abused children so that they can be rehabilitated (art. 24).

The State party should adopt effective measures for combating sexual abuse of children, including child pornography, and for rehabilitating abused children, so as to ensure compliance with article 24.

24. The Committee is concerned that the Screening Act is applied without consideration of the individual circumstances of each person. This raises serious issues under article 25 of the Covenant.

The State party must ensure that the Screening Act is not enforced in a blanket manner and is not used as a mechanism to deny persons access, on general terms of equality, to positions in the public service.

25. The Committee is concerned by the apparently low level of awareness amongst the public of the provisions of the Covenant and the Optional Protocol procedure (art. 2).

The State party should publicize the provisions of the Covenant and the availability of the individual complaint mechanism provided in the Optional Protocol, so as to create public awareness.

26. The State party should widely publicize the present examination of its initial report by the Committee and, in particular, these concluding observations.

27. The State party is asked, pursuant to rule 70, paragraph 5, of the Committee's rules of procedure, to forward information within 12 months on the implementation of the Committee's recommendations regarding the setting up of effective procedures for the implementation of Views adopted by the Committee (para. 6), special schools (para. 9) and the investigation of complaints against police officers (para. 16). The Committee requests that information concerning the remainder of its recommendations be included in the second periodic report, to be presented by 1 August 2005.

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